
FINDING AND RECOMMENDATION(S)

AS AMENDED 2-29-08

Submitted by: Bud Hicks

Finding:

There are needs to improve communications between the Tahoe Regional Planning Agency (TRPA) and the States of California and Nevada and to provide enhanced oversight by the two states. These steps are necessary in order to assure that the recommendations of the California Nevada Tahoe Basin Fire Commission ("Fire Commission") are followed up on, the 10 Year Plan of the Lake Tahoe Basin Multi-Jurisdictional Fire Reduction and Wildfire Prevention Strategy (the 10 Year Plan) is fully implemented, and the Community Wildfire Prevention Plans relevant to Tahoe Basin communities are implemented without unreasonable regulatory interference. Additionally, there are a number of other components of the Tahoe Basin regional plan that directly or indirectly relate to important forest health and public safety issues relevant to the potential for catastrophic fire within the Basin that need to be implemented as expeditiously as possible. Accordingly, means should be devised to facilitate regular reports by the TRPA to the Governors and Legislatures of both States, and to the Congressional delegations of the two states, regarding such matters and to provide for greater oversight by the two States of the TRPA's activities relating to such matters.

Background and Supporting Evidence:

One of the lessons of the disastrous Angora Fire is that there is a need to provide oversight and coordination over the efforts of all of the numerous agencies having jurisdiction in the Basin regarding issues relating to fire protection, public safety, and environmental matters. This is especially true with regard to the question of how regulatory requirements relating to environmental matters may unreasonably affect or impede public health and safety within the Basin. It has been stated in the hearings of the Fire Commission by various parties that the Fire Commission has provided long needed "adult supervision" over the various agencies in the Basin and their inter-agency efforts regarding fire safety issues. In this vein, the Fire Commission has provided a necessary review and oversight process that is needed in order to address the serious hazards posed by catastrophic fire to the Tahoe Basin.

However, even prior to the disastrous Angora fire, the various public entities involved in such matters have, in fact, worked together to develop a 10 Year Plan to implement in the Basin a well thought out and badly needed Multi-Jurisdictional Fuel Reduction and Wildfire Prevention Strategy. Their efforts in this regard are to be applauded. All of the fire departments and fire protection districts that serve the Basin have long recognized the risks of catastrophic fire to the Basin, and the public agencies having jurisdiction over environmental matters in the Basin have acknowledged that the risks of catastrophic fire pose severe environmental risks to the Basin and the Lake. Unfortunately, it took the Angora fire to underscore the seriousness of the issue with some of the public agencies. All of the involved agencies have since expressed their intent and willingness to continue their cooperative efforts to implement the 10 Year Plan and, in many important and significant ways, have already started the process to do so.

The TRPA is unique among the various agencies that participated in the creation of the 10 Year Plan because it is the only agency that has authority throughout the entire Tahoe Basin. The express authorities and responsibilities of the TRPA under the Compact to prescribe standards relating to numerous matters such as "water purity and clarity," "tree removal," "soil and sedimentation control," and "watershed protection" all relate, whether directly or tangentially, to forest health and fire prevention. Further, the TRPA Governing Board has express authority under the Compact to promulgate and implement programs (a) to protect life and property and/or public safety, and (b) forest preservation and restoration plans.

The following authority is expressly set forth in the Compact to the States of California and Nevada:

"The Tahoe Regional Planning Agency shall have such additional powers and duties as may hereafter be delegated or imposed upon it from time to time by the action of the Legislature of either state concurred in by the Legislature of the other."

1980 Compact, Art. X(b).

While the authority to impose extra powers on the TRPA requires the prior consent of Congress pursuant to Section 4 of public Law 96-551, it would appear that the States of Nevada and California may, by action of the Legislature of either State concurred in by the Legislature of the other, impose additional duties upon the TRPA without the prior consent of Congress. The TRPA, as the only agency having jurisdiction over all lands within the Basin, whether owned by governmental agencies or by private parties, is

uniquely positioned to monitor fuels reduction projects and forest health and restoration projects undertaken within the Basin. Therefore, the TRPA should be able to easily serve as a central source of coordinating Basin agencies' activities and the collection of information regarding the implementation of fuel reduction projects, forest health and restoration projects, and fire safety procedures throughout the Basin.

In addition to imposing further reporting obligations to the two States, there is a need to provide effective oversight of TRPA activities including, in particular, its efforts to assure public safety within the Basin, the protection of the Basin's forests, and the preservation of other natural resources that face the hazards of catastrophic fire. However, as a unique creation of the two states and the federal government, the oversight of the TRPA's activities by the three governments that created it has not been as effective as it could and should be.

Recommendation(s)

Recommendation 1: It is recommended that the Governors of the States of California and Nevada request their respective Legislatures to impose duties upon the TRPA to report to the Governors and Legislatures of each State, and to the Congressional delegations of each State, no less than yearly regarding (i) the status of the implementation of the 10 Year Plan, (ii) the status of fuel reduction efforts and forest restoration efforts within the Tahoe Basin, (iii) the status of remedial vegetation management efforts in areas within the Basin that have suffered catastrophic fires such as the area affected by the Angora fire, (iv) the TRPA's compliance with the TRPA's "Regional Plan for the Lake Tahoe Basin: Goals and Policies" insofar as they relate to natural hazards and precautionary measures taken to minimize impacts of fire hazards (see, Goals Document at II-25), (v) the TRPA's implementation of programs to increase public awareness of fire safety issues, the manipulation of vegetation to reduce fire hazards, and fire prevention techniques (See, Goals Document, at II 25-26), (vi) the TRPA's efforts to cooperate with the US Forest Service and other public landowners, private landowners, and local fire departments and fire protection districts to accomplish fire hazard reduction projects, and (vii) the TRPA's compliance with or failure to comply with any fire prevention or public safety recommendations made by such fire departments and fire protection districts.

Recommendation 2: Until the Legislatures of the States of California and Nevada collectively adopt legislation imposing such duties on the TRPA, it is recommended that the Governors of the States of California and Nevada (i) continue the duties and responsibilities of the California Nevada Tahoe Basin Fire Commission to continue

oversight of such matters, and (ii) request the TRPA Governing Board to voluntarily undertake such reporting duties to provide to the Governors and their designated representatives with the information identified in the foregoing recommendation.

Recommendation 3: It is further recommended that the Governors of the States of California and Nevada request their respective State Legislatures to utilize their budget review processes over the budgets of the respective States relating to the TRPA to exercise active and aggressive oversight of the TRPA's activities with regard to the implementation of the recommendations of the California Nevada Tahoe Basin Fire Commission, fuels reductions programs within the Tahoe Basin, forest health and restoration efforts within the Basin, and fire safety recommendations made by the fire departments and fire protection districts located within the Basin.

Recommendation 4: It is recommended that the Governors of the States of California and Nevada request the TRPA to submit a supplemental budget request to the two States addressing the additional costs, if any, anticipated to be incurred by the TRPA in meeting any additional duties imposed upon it by the two States pursuant to these recommendations, and that the Governors request the Legislatures of their respective States to fund reasonable supplemental budget requests for such purposes.

Impacts of Implementation: *(The implementation of any Recommendation is likely to have specific impacts. Consider potential consequences related to each of the following areas):*

Analysis of impacts on the following factors is REQUIRED (Best Estimate):

- ☐ Cost/ The costs of assembling relevant information for the preparation of such reports is unknown, but not believed to be greatly material. Current staff of the TRPA should be able to assemble and prepare such reports.
- ☐ Funding source/ TRPA budget.
- ☐ Staffing/ To be determined.
- ☐ Existing regulations and/or laws/ The formal adoption of additional reporting responsibilities of the TRPA will require the Legislatures of both states to take action. Voluntary implementation of such reporting requirements in the interim period until such duties are formally imposed can be done without changes to any present regulations or laws.

Analysis of impacts on the following factors is OPTIONAL:

For Commission Staff Use Only:

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- ☐ Operational
- ☐ Social
- ☐ Political
- ☐ Policy
- ☐ Health and Safety
- ☐ Environmental
- ☐ Interagency

PROPOSED